

## **EXECUTIVE SUMMARY**

### **Investigation into the Gumbad Incident**

#### **BACKGROUND**

On Sept. 30, Soldiers from Company B, 1<sup>st</sup> Battalion, 508<sup>th</sup> Infantry (Airborne), Regional Command South, Combined Joint Task Force-76 (CJTF-76) engaged the enemy near Gumbad, in the Shah Wali Kot district in northern Kandahar Province. The Gumbad area has been a location of known enemy activity. The engagement left one U.S. Soldier, one Afghan National Army soldier, two Taliban fighters dead, and several wounded in action. Twenty-four hours after the combat action, local nationals from Gumbad village had yet to retrieve the enemy combatant remains.

The following environmental and operational conditions existed:

- The temperature in that area exceeded 90 degrees with no shade nearby.
- The rocky terrain was such that it prevented the Soldiers from burying the remains.
- The hilltop where the enemy combatant remains were located afforded the best tactical advantage for follow on combat operations.
- The unit believed that it would remain at this position for another 48 hours.
- Enemy forces were still suspected to be in the area, but were at that time not located.

On Oct. 1, at approximately 1400 hours, an officer from the unit decided to burn the bodies for hygiene reasons and to protect his Soldiers. At the time of this decision, his battalion commander was meeting with village leaders in Gumbad village to brief them on the combat actions of the previous day and to coordinate with them the retrieval of the remains of the enemy combatants. (The battalion commander was unaware of the fact that the officer had directed the burning of the enemy remains). At approximately

1600 hours, the battalion commander contacted the officer to let him know that the villagers were moving to the position to retrieve the enemy remains. It was at this time when the battalion commander was advised of his subordinate's directive to burn the remains -- he immediately ordered that the remains be extinguished. The unit complied. When the villagers reached the position, they found the remains were not able to be moved. They returned to Gumbad and let the battalion commander know that they would dispose of the remains the next day.

Several hours after the burning of the enemy remains had started, a psychological operations loudspeaker team, after hearing about the burning of remains on the tactical radio, decided to use that information in two subsequent messages directed towards both the village and towards an adjacent mountainous area where the enemy was suspected to be hiding.

## **CJTF-76 Operational Response**

- Oct. 20: Incident reported to the CG, CJTF-76.
- Oct. 20: CG, CJTF-76 issues order to the task force directing all subordinate commanders to meet with the Afghan civil and military leaders in their respective provinces. This same order directed immediate suspension of all tactical psychological operations in Afghanistan pending command review.
- Oct. 21: CG, CJTF-76 departs for Kandahar to meet personally with the Kandahar governor to inform him of the media reports with allegations of potential violations of the Law of War; to tell him that misconduct such as this is not consistent with the values of US/Coalition forces; and to let him know that if allegations of misconduct were substantiated, those Soldiers responsible would be held accountable to the full extent of military law. CG, CJTF-76 arranged similar meetings the next day with the governors of Kandahar's neighboring provinces, Helmund and Zabul.
- Nov. 4: CG, CJTF-76 directs comprehensive refresher training on Afghan cultural awareness and the Law of War with focus on how they overlap.
- CJTF-76, in concert with CFC-A, assisted the Government of Afghanistan investigators during their parallel investigation into the two incidents.

**Investigations Initiated.** A total of five investigations (four informal and one formal) have been conducted:

- 1) A commander's inquiry into the allegation of burning the remains.
- 2) A commander's inquiry into the allegation of the broadcast of inappropriate loudspeaker messages.
- 3) An internal inquiry (AR 15-6) into the conduct of all psychological operations throughout the CJOA.
- 4) An internal inquiry (AR 15-6) into the processes and procedures, and cultural aspects, employed by the CJTF with respect to the handling of enemy remains.
- 5) A formal criminal investigation into the conduct of individuals involved in the Gumbad incident.

## **Two Separate but Related Incidents.**

While the initial media report presented the impression that the burning of enemy combatant remains and the broadcast of offensive loudspeaker messages were one action, CJTF-76 investigation revealed that the incident at Gumbad was comprised of two separate, but related actions: first, the hygienic disposal of remains subsequent to the firefight in Gumbad; and second, the broadcast of information pertaining to the burning of enemy combatant remains.

## **Action #1: The burning of enemy combatant remains subsequent to the firefight in Gumbad.**

- 1) CJTF-76 investigation revealed that U.S. Coalition forces did not violate the Law of War.

- 2) The Law of War requires the internment of enemy remains by burial or cremation. In particular, Article 17 of the 1949 Geneva Convention allows for the cremation of enemy remains for hygiene reasons and religious purposes.
- 3) CJTF-76 Soldiers are given basic training on the Law of War which only covers that enemy combatants may be buried or cremated, but does not go into the procedures that are to be followed. Procedures for cremation are much more extensive than what the Soldiers on the ground understood.
- 4) While not a violation of the Law of War, the burning of remains is not an acceptable practice according to Islamic religious beliefs and customs. CJTF-76 acknowledges that Islamic custom calls for the burial of the dead within 24 to 72 hours of death and that any burial should be conducted by Muslims.
- 5) The Soldiers at Gumbad did not have a thorough knowledge of the local Afghan traditions with respect to burial. This incident was the first time that this unit had killed enemy combatants at close range and had to determine what to do with the remains.
- 6) Finally, CJTF-76 investigation shows that there was no intent to desecrate, only to hygienically dispose of the enemy remains. The weather was hot, the remains were heavily damaged by gunfire, laying exposed for over 24 hours and beginning to rapidly decompose. The unit planned to remain on that hill for 48 to 72 more hours and thus made the decision to dispose of the remains in this manner for hygiene reasons only. The investigation also found that there was no action taken to hide this incident. When ordered to extinguish the remains by a senior officer who was at the time coordinating with local villagers to take custody of the enemy remains for burial, the unit complied immediately.
- 7) Based on the criminal investigation, there was no evidence to substantiate the allegation of desecration or any violation of the Law of War. However, there was evidence of poor decision-making and judgment, poor reporting and lack of knowledge and respect for local Afghan customs and tradition. Two Soldiers displayed poor judgment during this incident. They have received General Officer Memorandums of Reprimand.

**Action #2: The broadcast of PYSOPS message pertaining to the burning of enemy combatant remains subsequent to the firefight in Gumbad.**

- 1) CJTF-76 investigation revealed that U.S. psychological operations forces did broadcast two loudspeaker messages designed to incite fleeing Taliban to fight. These messages mentioned the burning of enemy remains and were in violation of standing policies for the content of loudspeaker messages.

- 2) The criminal investigation revealed that there was no evidence to substantiate that the remains were burned for the purpose of providing content for the loudspeaker message. However, the investigation did reveal that the loudspeaker operator did willfully violate known standards for message content and standards for reporting his activities during the conduct of missions. Additionally the operator and his supervisor failed to follow documentation and reporting procedures surrounding this incident. Their conduct falls well below the acceptable standards of behavior for Soldiers.
- 3) As a result of these actions, two Soldiers who displayed poor judgment and sub-standard performance during this incident received non-judicial punishment under Article 15 of the Uniform Code of Military Justice. Additionally, both were issued General Officer Memorandums of Reprimand – the most serious administrative action that the command can impose. The command also directed that the two Soldiers and the unit commander be reassigned to other duties for rehabilitative reasons.

## **Command actions**

- 1) CJTF-76 leaders at all levels conducted several meetings with Afghan leaders to gain their insight and advice as to how we can better conduct operations with respect to Afghan cultures. The command has directed additional cultural awareness training for all leaders in the CJTF with the assistance of the command cultural advisors and with input and personal participation of Afghan leaders. This training also addressed the Law of War, with particular focus in the areas where Afghan Culture and the Law of War overlap.
- 2) An Afghan Cultural Awareness Pocket Card is in production. This card contains information on Cultural Do's and Don'ts including the disposition of remains.
- 3) CJTF leaders and PSYOP Soldiers have conducted specialized training to clarify the policies and procedures that govern Psychological Operations. Additionally, measures have been taken to clarify command relationships and the approval processes for psychological operations products.

## **Summary**

CJTF-76 investigations identified two separate, but related incidents that highlighted poor judgment and a lack of Afghan cultural knowledge – not Law of War violations.

These judgment errors are serious and have been corrected with administrative actions

and training.